IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA ALEXANDRIA DIVISION

JACOB E. ABILT,)
Plaintiff,)
v.) Case No. 1:14-cv-01031-GBL-IDD
CENTRAL INTELLIGENCE AGENCY, et al.,))
Defendants.)

ORDER

This matter is before the Court on Defendants Central Intelligence Agency and John O. Brennan's ("Defendants") Motion to Dismiss (Doc. 28). Defendants seek dismissal of this action pursuant to the state secrets privilege. In support of their motion, Defendants have submitted public and classified declarations from Defendant Brennan in his capacity as the Director of the Central Intelligence Agency. Because this Court has reviewed Defendants' declarations, which are outside of the pleadings, the Court hereby gives notice to the parties that Defendant's motion will be converted to a motion for summary judgment. *See* Fed.R.Civ.P. 12(d); *Gadsby by Gadsby v. Grasmick*, 109 F.3d 940, 949 (4th Cir.1997).

"There are two requirements for a proper Rule 12(d) conversion." *Greater Baltimore Center for Pregnancy Concerns, Inc. v. Mayor and City Council of Baltimore*, 721 F.3d 264, 281 (4th Cir.2013). First, all parties must be given notice that the Court is treating the 12(b)(6) motion as a motion for summary judgment. *Id.* Second, the parties must "be afforded a reasonable opportunity for discovery."

The Court recognizes the dangers in allowing discovery to proceed in this action where Defendants contend that the very core of Plaintiff's claims implicate classified information. Therefore, the Court is not inclined to allow any discovery in this action.

Accordingly, Defendants' Motion to Dismiss (Doc. 28) will be converted into a Motion for Summary Judgment at the hearing scheduled on February 6, 2015.

IT IS SO ORDERED.

ENTERED this 21 day of February, 2015.

Alexandria, Virginia 2/ 2/ 2015

Gerald Bruce Lee
United States District Judge